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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,046	03/31/2000	Stuart W. Sherlock	10559/1999001/P8371	3219
20985	7590	10/04/2004	EXAMINER	
FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			JAGANNATHAN, MELANIE	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/541,046

Applicant(s)

SHERLOCK, STUART W.

Examiner

Melanie Jagannathan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 6, 8-9, 13, 15, 17, 19, 23-26, 29 rejected under 35 U.S.C. 102(e) as being anticipated by Randic US 6,275,797.

Regarding claims 1-4, 6, 8-9, 13, 15, 17, 19, 23-26, 29, the claimed generating audio packets representing an input audio signal, communicating packets over network, generating an output audio signal from communicated audio packets, and generating and comparing input and output envelope waveforms is disclosed by voice test file generated by computer, compressed and encapsulated including generating digitized voice data (Figure 3, element 41), transmitted to receiving computer over packet-based network through voice path under test, voice test file is received and decompressed and is fed into AVR system (Figures 1 and 2, element 24) and compares nondistorted voice file with voice file transmitted over network.

Regarding claim 5, the claimed telephony enabled computers is disclosed by sending and receiving computers and telephones. See Figures 1-3.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 7, 14, 18, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randic in view of Zhang et al. US 6,775,240.

Randic discloses all of the limitations of the claim except for generating waveforms at resolution that is function of buffer lengths of codecs. Zhang et al. discloses system and method for measuring quality of communications over packet networks including test analyzer and A-D and D-A equipment with resolution of at least 16 bits. See column 5 and Figure 1. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Randic to include resolution waveforms generated be a function of the buffer lengths. One of ordinary skill in the art would be motivated to do that in order to take into account storage in buffer so as not to lose data during coding and decoding.

4. Claims 10-12, 16, 27-28, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randic in view of Tustin et al. US 6,026,350.

Regarding claims 10-12, 16, 30, Randic discloses all of the limitations of the claims except for normalizing and aligning captured input and output audio signals using embedded trigger signal. Tustin et al. discloses measurement of oscilloscope and specialized type of analyzers presenting captured waveforms where self-framing serial trigger circuit producing serial trigger signal applied to channels. See column 1, lines 5-26, column 2, lines 61-67, and columns 3-4. At the time the invention was made it would have been obvious to modify Randic

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with techniques of analyzer in Tustin et al. One of ordinary skill in the art would be motivated to do this for proper measurement.

Regarding claims 27-28, Randic discloses all of the limitations of claims except for audio analyzer including graphical user interface that displays in real-time waveforms and transmission qualities. Tustin et al. discloses oscilloscope and specialized analyzers with means of presenting results and means of user control. See column 2, lines 61-67, column 3, and lines 1-31. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify Randic with oscilloscope and analyzer of Tustin et al. One of ordinary skill in the art would be motivated to do this for user accessibility.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ruberg US 6,675,054 discloses supporting an audio protocol in a network environment.

Nagano US 6,275,020 discloses frequency analysis method and sweep type spectrum analyzer.

Downing et al. US 6,373,855 discloses using audio performance to control video bandwidth.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Jagannathan whose telephone number is 571-272-3163. The examiner can normally be reached Monday-Friday 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3163.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie Jagannathan  
Patent Examiner  
AU 2666

MJ



**FRANK DUONG**  
**PRIMARY EXAMINER**